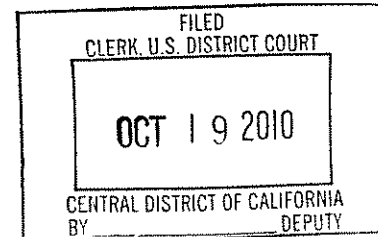


Rosemary M. Rivas (State Bar No. 209147)
rrivas@finkelsteinthompson.com
Tracy Tien (State Bar No. 253930)
ttien@finkelsteinthompson.com
FINKELSTEIN THOMPSON LLP
100 Bush Street, Suite 1450
San Francisco, CA 94104
Telephone: (415) 398-8700
Facsimile: (415) 398-8704



*Attorneys for Individual and Representative
Plaintiff Ivan Goldsmith*

[Additional Counsel Listed on Signature Page]

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

IVAN GOLDSMITH, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

ALLERGAN, INC., a Delaware
Corporation,

Defendant.

CASE NO. 09-CV-7088 PSG (Ex)

**THIRD AMENDED CLASS
ACTION COMPLAINT**

DEMAND FOR JURY TRIAL

1 Plaintiff Ivan Goldsmith (“Plaintiff”), on behalf of himself and all others
2 similarly situated (“Class members”), alleges against Defendant Allergan, Inc.
3 (“Allergan” or “Defendant”) upon personal knowledge as to his own acts, and
4 upon information and belief, including investigation of counsel, which includes
5 interviews and discussions with medical professionals and former employees and
6 discovery produced in the litigation, as to all other allegations, as follows:

7 **NATURE OF THE ACTION**

8 1. Defendant, in furtherance of its unlawful promotional scheme
9 surrounding its product, Botox® Cosmetic (“Botox® Cosmetic” or “the Product”),
10 has engaged in a course of conduct that is unlawful, unfair, and fraudulent in order
11 to increase sales to doctors.

12 2. Defendant is one of the dominant and controlling companies in the
13 pharmaceutical industry. Defendant developed and orchestrated, from its
14 headquarters in California, a promotional scheme, the purpose and effect of which
15 was to falsely portray the permissible use of Botox® Cosmetic in order to induce
16 Plaintiff and Class members to invest in the development of Botox® Cosmetic
17 practices and to purchase large quantities of the Product. Specifically, Defendant’s
18 promotional scheme and business plan promoted to Plaintiff and Class members
19 encouraged them to use one vial of Botox® Cosmetic on multiple patients,
20 contrary to the product’s label and directives from the Centers for Disease Control
21 (“CDC”) and other state medical boards and applicable medical institutions.

22 3. Defendant’s misrepresentations and unfair conduct regarding using
23 one vial of Botox® Cosmetic on multiple patients is twofold. First, Defendant
24 purposefully misrepresents that one vial of the Product can be used for multiple
25 patients and represented to Plaintiff and Class members the profits they could
26 make based on the assumption of administering an entire vial of the Product
27 amongst multiple patients. Second, Defendant packages the Product in excessive
28 quantities such that an entire bottle of Botox® Cosmetic cannot be fully used

1 without violating applicable safety requirements. This results in sales of the
2 Product that necessarily will be wasted and overcharges to Plaintiff and Class
3 members because they must pay for the entire contents of one Botox® Cosmetic
4 vial but are unable to use the entire contents due to its excessive packaging and the
5 Product's short shelf life. The excessive packaging in turn increases Defendant's
6 sales, revenues and profits beyond what they would be if the Product were
7 packaged in smaller amounts more suited to single patient usage. As the only
8 maker of Botox® Cosmetic and through its fraudulent marketing, and unlawful and
9 unfair conduct, Defendant caused Plaintiff and Class members to become reliant
10 on the Product in order to recover the costs of developing their Botox® Cosmetic
11 practices, which in turn locked them in to continued purchases of the oversized
12 product vials long after they learned that it could not be used for multiple patients.
13 Plaintiff's continued purchases of Botox® Cosmetic vials after learning of the
14 single-use limitation were not voluntary, but coercive as a direct causal result of
15 the product lock-in that was intended, encouraged and promoted by Defendant's
16 fraudulent, unfair and unlawful marketing scheme.

17 4. At all relevant times, Defendant knew that a single vial of the Product
18 was neither intended nor permitted for use on multiple patients. It is not possible
19 for Plaintiff and Class Members to both administer Botox® Cosmetic in the
20 manner instructed by Defendant while simultaneously using the Product in its
21 permissible and intended manner.

22 5. Plaintiff relied on Defendant's misrepresentations, incurring expenses
23 for business development and unusable and unused Product. Plaintiff's reliance on
24 Defendant's misrepresentations was open and well known to Defendant.

25 **JURISDICTION AND VENUE**

26 6. This Court has personal jurisdiction over the parties in this case.
27 Defendant is a Delaware corporation with headquarters in this District.
28

1 7. This Court has subject matter jurisdiction over this action pursuant to
2 the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because at least one
3 Class member is of diverse citizenship from Defendant, there are more than 100
4 Class members nationwide, and the aggregate amount in controversy exceeds
5 \$5,000,000.

6 8. Venue is proper in this District under 28 U.S.C. § 1391(a) because
7 Defendant maintains its headquarters within this District, a substantial part of the
8 events or misrepresentations giving rise to the claim occurred within this District,
9 and Defendant has caused harm to Class Members residing within this District.

10 **PARTIES**

11 9. Plaintiff Dr. Ivan Goldsmith is a resident and citizen of Nevada and
12 purchased and administered the Product marketed by Defendant.

13 10. Defendant Allergan is a Delaware corporation with its principle place
14 of business in Irvine, California, which is in the County of Orange. Defendant is
15 one of the largest pharmaceutical companies in the world. Defendant designed,
16 developed, manufactured, tested, marketed, promoted, distributed, and sold the
17 Product as Botox® Cosmetic, a product designed to decrease the appearance of
18 glabellar lines (also known as the frown lines in between the eyebrows) in persons
19 65 years of age and under. In doing so, Defendant placed the Product in the stream
20 of commerce in California and throughout the United States. Defendant has
21 received, and will continue to receive, substantial benefits and income through its
22 activities. Defendant authorized the actions attributed to it herein through its
23 officers, directors, and managing agents.

24 //

25 //

26 //

27 //

28 //

FACTUAL BACKGROUND

A. Product History and Use

i. The Product is Approved for the Treatment of Glabellar Lines and is Packaged in 100-Unit Vials

11. Botulinum Toxin Type A, or onabotulinumtoxinA, is a protein complex produced by the bacterium *Clostridium botulinum*, which contains the same toxin that causes food poisoning. When used in a medical setting as an injectable form of sterile, purified botulinum toxin, small doses block the release of a chemical called acetylcholine by nerve cells that signal muscle contraction.

12. Botulinum Toxin Type A was originally sold and marketed by Defendant under the trade name, Botox®, and packaged in 100-unit vials. There are currently four uses approved by the Federal Drug Administration (“FDA”) for Botox®: the treatment of certain eye twitches and disorders (strabismus & blepharospasm), involuntary neck muscle contractions (cervical dystonia), and excessive underarm sweating (primary axillary hyperhidrosis). In 2010, Botox® was approved by the FDA to treat migraines. Botulinum Toxin Type A marketed under the trade name Botox® is generally used for therapeutic purposes.

13. In 2002, the FDA approved the use of Botulinum Toxin Type A for cosmetic purposes, specifically, the treatment of glabellar lines, also known as the wrinkles in between the eyebrows. Although chemically identical to Botox®, Botulinum Toxin Type A for glabellar lines is sold and marketed under the trade name Botox® Cosmetic. Botox® Cosmetic was only available in 100-unit vials until May 2008.

14. A 100-unit vial of Botox® Cosmetic contains 100 units of vacuum-dried *Clostridium botulinum* type A neurotoxin complex. The complex is dissolved in a sterile sodium chloride solution containing Albumin (the main protein in

1 human blood) and is sterile filtered prior to filling and vacuum-drying¹. Botox®
2 Cosmetic is reconstituted with sterile, non-preserved saline before injection. Since
3 the complex and diluent do not contain a preservative, once it is opened and
4 reconstituted, Botox® Cosmetic must be stored in a refrigerator and used within
5 four hours.²

6 15. Botox® Cosmetic is also marketed by Defendant for non-FDA, off-
7 label uses such as for the treatment of horizontal forehead lines and crows feet.

8 16. Until April 2009 when the FDA approved Dysport, which is
9 manufactured and sold by Medicis Aesthetics (an Allergan competitor), Allergan
10 was the only maker of a botulinum toxin product for cosmetic use.

11 **ii. The Product is Approved in a Single-Use Vial**

12 17. Botox® Cosmetic is, and at all times has been, FDA-approved in a
13 single-use vial. “A single-use vial is a bottle of liquid medication that is given to a
14 patient through a needle and syringe. Single-use vials contain only one dose of
15 medication and should only be used once for one patient, using a clean needle and
16 clean syringe.”³ In contrast, a multi-dose vial is a bottle of liquid medication that
17 contains more than one dose of medication and is often used for vaccinations.⁴

18 18. Defendant sends physicians a Material Safety Data Sheet for Botox®
19 and Botox® Cosmetic and instructs the distribution of the data sheet to employees
20 administering Botox® Cosmetic. The Material Safety Data Sheet is silent on
21 whether a vial of the Product is single-use or multi-use.

22
23 ¹ RxList, <http://www.rxlist.com/botox-drug.htm> (last visited Oct. 19, 2010).

24 ² *Id.*

25
26 ³ Centers for Disease Control and Prevention, A Patient Safety Threat - Syringe
27 Reuse, http://www.cdc.gov/injectionsafety/patients/syringeReuse_faqs.html (last
visited Oct. 19, 2010).

28 ⁴ *Id.*

1 19. The Botox® Cosmetic vial label, carton, and package insert have gone
2 through several iterations since the Product was FDA-approved in 2002. Not all
3 iterations of the Botox® Cosmetic vial label have stated that the product was for
4 single-use.

5 20. An unopened vial of Botox® Cosmetic may be stored in the
6 refrigerator for up to 36 months for the 100-unit vial or up to 24 months for the 50-
7 unit vial.

8 21. An open, reconstituted vial of Botox® Cosmetic must be used within
9 four (4) hours of reconstitution.

10 22. The Product includes a lengthy package insert. Buried within the
11 Product's description and indication language is the following language in small
12 print but reproduced in larger print here:

13 Do not exceed the recommended dosage and frequency of **BOTOX®**
14 **Cosmetic**. Risks resulting from administration at higher dosages are not
15 known.

16 ...

17 **PRECAUTIONS**

18 *General:*

19 The safe and effective use of **Botox® Cosmetic** depends upon proper
20 storage of the product, selection of the correct dose, and proper
21 reconstitution and administration techniques.

22 ...

23 **HOW SUPPLIED:**

24 **Botox® Cosmetic** is supplied in a single patient use vial in the following
25 sizes.

26 50 Units: NDC 0023-9232-50

27 100 Units: NDC 0023-9232-01

28 **Single-use vial.**

23. Allergan management tells its sales representatives (known as Business Development Managers or “BDMs”) that it is not necessary to leave the Botox® Cosmetic package insert at every physician’s office they visit.

iii. **The Centers for Disease Control and Prevention and State Medical Boards Warns Against Multiple Uses of a Single-Use Vial**

24. Cosmetic treatments do not require 50 or 100 units of the Product. For instance, the recommended dosage for the treatment of glabellar lines is 20 units. So if a patient needs only 20 units, the remaining 80 units (of a 100-unit vial) must be discarded.

25. The CDC warns against multiple uses of a single-use vial.⁵ Like the CDC, several state health departments including the California Department of Public Health, the Nevada State Health Division, the New York State Department of Health, and the Oklahoma State Department of Health also warn against the multiple use of a single-use vial.

26. The CDC warns against multiple uses of a medication vial and the dangers of contamination.⁶

27. The CDC warns that practices that have resulted in transmission of hepatitis C virus (HCV) and/or hepatitis B virus (HBV) include “using the same

⁵ Centers for Disease Control and Prevention, Standard Precautions, http://www.cdc.gov/ncidod/dhqp/gl_isolation_standard.html (last visited Dec. 3, 2009); Jane D. Siegel et al., *2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, <http://www.cdc.gov/hicpac/pdf/isolation/Isolation2007.pdf> (last visited Oct. 19, 2010)

⁶ Centers for Disease Control and Prevention, FAQs for Providers, http://www.cdc.gov/injectionsafety/providers/provider_faqs.html (last visited Oct. 19, 2009).

1 medication vial for more than one patient, and accessing the vial with a syringe
2 that has already been used to administer medication to a patient.”⁷

3 28. The CDC provides, “Medication vials that are labeled for single-use
4 and pre-filled medication syringes should never be used for more than one
5 patient.”⁸

6 29. In response to the question, “Is it acceptable to leave a needle or other
7 device inserted in the septum of a medication vial for multiple medication draws?”
8 the CDC provides, “NO. A needle or other device should never be left inserted into
9 a medication vial septum for multiple uses. This provides a direct route for
10 microorganisms to enter the vial and contaminate the fluid.”⁹

11 30. The CDC also states that “It is a well established practice to never use
12 the same syringe or needle for more than one patient nor to enter a medication vial
13 with a syringe or needle used for one patient if the same vial might be used for
14 another patient.”¹⁰

15 31. These stringent requirements regarding proper use of a single-use vial
16 are important because “Pathogens including HCV, HBV, and human
17 immunodeficiency virus (HIV) can be present in sufficient quantities to produce
18 infection in the absence of visible blood. Similarly, bacteria and other microbes
19 can be present without clouding or other visible evidence of contamination. Just
20 because you don't see blood or other material in a used syringe or IV tubing does
21 not mean the item is free from potentially infectious agents.”¹¹

22
23 ⁷ *Id.*

24 ⁸ *Id.*

25 ⁹ *Id.*

26 ¹⁰ *Id.*

27 ¹¹ *Id.*

32. The CDC's August 27, 2001 Morbidity and Mortality Weekly Report ("MMWR") stated, "[o]nce a needle has entered a vial labeled for single use, the sterility of the product can no longer be guaranteed. Residual medication from two or more vials should not be pooled into a single vial."¹²

33. After hepatitis outbreaks during 2000-2002, in a September 26, 2003 MMWR, the CDC again warned, "[d]o not administer medications from single-dose vials or combine leftovers for later use."¹³

34. In February 2008, the Nevada State Health Division issued a technical bulletin directing physicians to adhere to "fundamental principles related to safe injection practices." Specifically, the Nevada State Health Division stated that single-use medication vials should not be used for multiple patients and leftover medication from single-use vials should not be combined for later use.

35. In March 2008, the California Department of Public Health issued a letter to healthcare facilities warning them against using single-use vials for multiple patients. The letter stated that injection practices should be consistent with CDC standards, which require that single-use vials never be used for multiple patients.

36. In the summer of 2008, the Oklahoma State Department of Health also issued an "Epidemiology Bulletin" warning medical practitioners against using single-use vials for multiple patients.

//

¹² Centers for Disease Control and Prevention, *Recommendations for Preventing Transmission of Infections Among Chronic Hemodialysis Patients*, Apr. 27, 2001, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5005a1.htm>

¹³ Centers for Disease Control and Prevention, *Transmission of Hepatitis B and C Viruses in Outpatient Settings --- New York, Oklahoma, and Nebraska, 2000—2002*, MMWR 2003; 52(38):901-906; Sept. 26, 2003, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5238a1.htm>

iv. **Hepatitis Exposure in Nevada Causes Defendant to Package the Product in 50-Unit Vials**

37. In February 2008, the Southern Nevada Health Department notified over 40,000 Nevada residents about a potential exposure to hepatitis from multiple uses of Propofol, another drug product approved for single-use administration but often promoted and used in multiple procedures. A number of residents did indeed contract hepatitis.

38. After the hepatitis outbreak, the Nevada State Medical Board sent a letter to Plaintiff and other physicians instructing them that one vial of Botox® Cosmetic should only be used on one patient.

39. In March 2008, the Compliance Alliance, a firm which addresses healthcare compliance issues in Nevada, Arizona, and California, sent a letter to Defendant specifically noting that Botox® Cosmetic was being extensively used as “multi-dose” vials. The Compliance Alliance noted that many physicians’ practices had closed down and licenses were suspended due to using medications labeled “single-use” for multi-use purposes. The Compliance Alliance advised Defendant to package the Product in smaller vials, such as 30-unit vials.

40. Because of the controversy, only then did Defendant begin packaging Botox® Cosmetic in smaller unit vials. In May 2008, Defendant began packaging Botox in 50-unit vials. These 50-unit vials were initially introduced in limited numbers. However, at \$298 a vial, a 50-unit vial is sold at a much higher price than 50% of a 100-unit vial (at \$525).

B. Defendant Misrepresents the Use of Botox® Cosmetic and Promotes a Misleading, Unfair, and Unlawful Business Model From Its Headquarters in California

41. A month after the FDA’s approval of Botox® Cosmetic to treat glabellar lines in 2002, Defendant, stressing the importance of marketing to physicians, launched a \$50 million advertising campaign. The campaign had two

1 components: (1) targeting consumers through television and print ads in women's
2 magazines, patient brochures, and in-office materials; and (2) targeting physicians
3 with Botox® Cosmetic business development opportunities and training.

4 42. First, Defendant urged women to use Botox® Cosmetic. The New
5 York Times reported that "Allergan officials expect Botox sales, which include
6 medical and cosmetic drug sales, could jump by nearly 35 percent this year,
7 generating \$420 million for the company, [Allergan spokesperson] Ms. Cassiano
8 said. About one-third of sales stem from Botox cosmetics. The drug company has
9 committed \$50 million to an advertising campaign[] and local doctors and spa
10 owners said they had already noted an increase in Botox inquiries."¹⁴

11 43. An article discussing the FDA approval of Botox® Cosmetic stated
12 that despite the publicity and increase in Botox® Cosmetic sales, it was "not
13 enough to satisfy Allergan executives." Tom Albright, Allergan's head of
14 marketing, stated, "word of mouth didn't spread everywhere." The article states,
15 "[a]lthough high-glam places like New York, Los Angeles, and Miami took to
16 Botox early on, Albright argues that doctors and patients in much of the nation's
17 midsection still need enlightenment. He says that only 1% of Allergan's target
18 audience of 5.5 million 'aesthetically oriented people' (essentially, prosperous
19 middle-aged women who have already visited a dermatologist) have used Botox
20 for wrinkles."¹⁵

21 44. The Orange County Register reported in 2007 that only three percent
22 of women who could afford Botox injections actually got them. It became

23 ¹⁴ Kathleen Kiley, *A New Face on the Party Scene: Botox*, N.Y. Times, June 23,
24 2002, available at [http://www.nytimes.com/2002/06/23/nyregion/a-new-face-on-](http://www.nytimes.com/2002/06/23/nyregion/a-new-face-on-the-party-scene-botox.html)
25 [the-party-scene-botox.html](http://www.nytimes.com/2002/06/23/nyregion/a-new-face-on-the-party-scene-botox.html).

26 ¹⁵ Brian O'Reilly, *Facelift in a Bottle Allergan, the drug company that makes*
27 *Botox, has a fresh glow*, CNNMoney.com, June 24, 2002, available at
28 [http://money.cnn.com/magazines/fortune/fortune_archive/2002/06/24/325166/inde](http://money.cnn.com/magazines/fortune/fortune_archive/2002/06/24/325166/index.htm)
[x.htm](http://money.cnn.com/magazines/fortune/fortune_archive/2002/06/24/325166/index.htm).

1 Defendant's resolve to persuade the remaining ninety-seven percent of women that
2 "they're missing out on a good thing." The company conducted research through
3 consumer surveys and found that aside from safety issues, "the real issue was that
4 people didn't want a frozen face." Defendant later launched a "Freedom of
5 Expression" ad campaign. The campaign spotlighted *Sideways* actress Virginia
6 Madsen, who discussed her own use of Botox® Cosmetic and her ability to convey
7 emotions. BrandWeek dedicated an article on the campaign in July 2008. The
8 campaign, reportedly managed by Grey Healthcare Group, included fifteen and
9 thirty second spots on cable channels such as Lifetime, TNT, HGTV and TLC; and
10 network TV including The Today Show, The View and Good Morning America.
11 Print ads were also displayed in twenty national magazines. Web banners were
12 posted on the sites of many of the broadcast outlets and magazines. The campaign
13 also included public service announcements such as an event with Allergan,
14 Madsen, and the League of Women Voters encouraging people to vote and
15 presumably, consider Botox. It was estimated that Defendant spent \$41 million in
16 2007 on ads for Botox® Cosmetic, excluding online ads.

17 45. Because the wholesale cost of Botox® Cosmetic is so high
18 (approximately \$525 for a 100-unit vial and \$298 for a 50-unit vial) and cosmetic
19 procedures do not require 50 or 100 units of Botox® Cosmetic, Defendant created
20 a marketing campaign from its corporate headquarters in California which
21 promoted multi-use of a single vial as a primary means of effectuating the purchase
22 by Plaintiff and the Class.

23 i. **Defendant Misrepresents that One Vial of Botox®**
24 **Cosmetic May be Used for More than One Patient**

25 46. Second, Defendant marketed Botox® Cosmetic to medical
26 professionals. Defendant, through its sales representatives who were trained,
27 supervised and directed from the Defendant's Irvine, California headquarters, told
28 Plaintiff and Class members that one vial of Botox® Cosmetic could be used for

1 multiple patients and instructed Plaintiff and Class members on how to inject
2 multiple patients using one vial of the Product.

3 47. Based upon sources including but not limited to news stories, journal
4 articles, and interviews with medical professionals, Defendant's misrepresentations
5 concerning the multi-use of Botox vials have been ongoing and continuous since
6 the Product's inception in 2002. Moreover, given the CDC warnings and medical
7 board regulations, Defendant knew, since the Product's inception, that its
8 marketing of the Product was contrary to established health precautions.

9 48. Defendant's marketing to Plaintiff and Class members is conducted
10 primarily through in-office visits by Allergan BDMs.

11 49. Immediately after the Product was approved in 2002, Defendant
12 targeted physicians with training options. Starting in 2002, Defendant's wrongful
13 promotional efforts included providing, through its sales representatives,
14 complimentary staff vials. Defendant's representatives bring "staff vials" of the
15 Product to a physician's office, instruct the office on how to reconstitute the
16 Product, line up the office's employees, and instruct injectors where and how to
17 inject the Product. During these sessions, Defendant's representatives direct that
18 one vial of Botox® Cosmetic be used on multiple people. In fact, during these
19 presentations, under the supervision of Allergan representatives, the contents of
20 one vial of Botox® Cosmetic would be injected into multiple people.

21 50. Defendant also holds training sessions for its sales representatives
22 where multiple Allergan representatives are injected with Botox® Cosmetic from
23 the same bottle. Defendant's sales representatives are then told that this is how
24 they should market the product to physicians.

25 51. Defendant, through its representatives, recommends that physicians
26 encourage customers to use the "buddy system," where two or more patients come
27 in to the office together to share a single vial. For that reason, Defendant also
28

1 suggests specific procedure days where patients can be scheduled in a manner to
2 effectively use the vials to avoid spoilage.

3 52. Even before Plaintiff first purchased Botox® Cosmetic in 2005,
4 Defendant's representative, Jenny Jones would visit Plaintiff's offices to promote
5 the Product.

6 53. BDMs supporting Allergan Facial Aesthetics visited Plaintiff. These
7 BDMs included, but are not limited to, Tina Damore and Jenny Jones. On multiple
8 occasions, Plaintiff saw Defendant's representatives, including but not limited to,
9 Jenny Jones, Tina Damore, Mary Bryant, and other training representatives
10 including some representatives from Phoenix and San Diego demonstrate that
11 Botox® Cosmetic could be injected from one vial and used on multiple patients.
12 Jenny Jones would visit Plaintiff approximately weekly upon the grand openings of
13 his new facilities, and then on average, one to two times per month.

14 54. Plaintiff is aware of countless instances of misleading promotion, both
15 publicly and privately, by Defendant through its representatives.¹⁶ References to
16 "Botox parties" using a single 100-unit vial across numerous "party" attendees
17 were included in continuing medical education ("CME") programs and other
18 promotional forums hosted, funded, or promoted by Defendant beginning with the
19 product's introduction in 2002. Defendant, through its representatives, promoted
20 and attended physician administered "Botox parties" where multi-patient use of a
21 single vial was encouraged and also provided merchandise and food for the party
22 attendees.

23
24 ¹⁶ Although this complaint alleges that Defendant made representations that
25 constituted more than mere off-label promotion, Defendant has admitted that it
26 promotes off label uses of Allergan products through its representatives and that
27 such promotion is in violation of FDA regulations. *See Allergan, Inc. v. United*
28 *States*, No. 2009 CV 01879 (D.D.C. filed October 1, 2009) (complaint asserting
First Amended rights to free speech).

1 60. On July 9, 2002, Public Citizen's Health Research Group sent a letter
 2 to Johns Hopkins School of Medicine requesting that the school cancel its "Botox
 3 Night." The letter acknowledged that "a vial of the very expensive Botox typically
 4 contains enough toxin for five injections; because the contents are intended to be
 5 discarded within four hours of the vial being opened, there is an incentive to use all
 6 the contents rapidly. The procedure must be repeated every three to six months,
 7 potentially providing a steady stream of patients (and income)."¹⁸

8 61. The Public Citizen's Health Research Group letter also stated,
 9 "Shortly after Botox was approved for cosmetic uses, the American Academy of
 10 Dermatology went on record criticizing Botox parties. In an April 29, 2002, letter
 11 to all Academy members, Dr. Fred F. Castrow II, the Academy's president, stated
 12 that 'Social gatherings of this kind in combination with botulinum toxin treatments
 13 are inappropriate and potentially dangerous settings for patients. As such, I
 14 strongly discourage you from participating in these kinds of medical/social
 15 activities.'"¹⁹

16 62. An article discussing expert warnings against Botox parties stated,
 17 "Botox parties . . . appear to represent a nifty solution to an often-frustrating
 18 problem with Botox's packaging: the substance is sold in vials containing 100
 19 units, which is enough for about five treatments. Once open and mixed, however,
 20 the Botox must be used within four hours, according to specifications by its maker,
 21 Allergan. At about \$400 per vial, doctors better make sure they've got more than
 22
 23
 24

25 ¹⁸ <http://www.citizen.org/publications/publicationredirect.cfm?ID=7183> (last
 26 visited Oct. 19, 2010).

27 ¹⁹ *Id.*
 28

1 one patient lined up.”²⁰ According to one doctor in this article, any unused
 2 Botox® Cosmetic has to be discarded.

3 63. In an article discussing Botox parties, dated December 1, 2002,
 4 Defendant’s manager of public affairs, Christine Cassiano was quoted, “(Botox
 5 Cosmetic) is sold in a 100-unit vial” and “. . . per vial, it (the dosage) is dependent
 6 on the patient and the indication for which it is being used. When used for treating
 7 brow furrow, the dosage is approximately 20 units. So 20 units would be
 8 necessary for the five injections of four units each.” Moreover, “For sterility
 9 purposes, it should be used within four hours of being reconstituted.” The article
 10 notes that “the economics behind paying for a vial that will potentially treat five,
 11 rather than just one patient with the average 20-unit dosage, have led some to
 12 create ‘botox parties.’”²¹

13 64. In a 2002 article, Allergan CEO, David E.I. Pyott stated, “Botox is
 14 elective. We want the experience to be marvelous. Like going to an expensive
 15 restaurant. If it's bad, you won't go back.”²²

16 65. “[I]n addition to training doctors to inject Botox, Allergan is teaching
 17 them to design and decorate their offices to appeal to patients who want to be
 18 pampered. A new class of medicine men -- ‘Botox cosmetic development
 19
 20

21 ²⁰ Experts Frown on Botox Parties, [http://www.botox-cosmetic-](http://www.botox-cosmetic-surgery.com/news_botox_experts_frown_botox_parties.htm)
 22 [surgery.com/news_botox_experts_frown_botox_parties.htm](http://www.botox-cosmetic-surgery.com/news_botox_experts_frown_botox_parties.htm) (last visited Oct. 19,
 23 2010).

24 ²¹ Kelli M. Donley, *Beauty by Injection: Following the Botox Craze*,
 25 *Surgistrategies.com*, Dec. 1, 2002, *available at*
 26 [http://www.surgistrategies.com/articles/2002/12/beauty-by-injection-following-](http://www.surgistrategies.com/articles/2002/12/beauty-by-injection-following-the-botox-craze.aspx)
 27 [the-botox-craze.aspx](http://www.surgistrategies.com/articles/2002/12/beauty-by-injection-following-the-botox-craze.aspx).

28 ²² O’Reilly, *supra*.

1 managers’-- will tell doctors what women really want while they are being
2 inoculated against wrinkles.”²³

3 66. Defendant urged Plaintiff and Class Members to host these “Botox
4 parties.” Plaintiff was told by his Allergan representative to “utilize the resources
5 of your Allergan Rep – to support you with printing for your event mailers,
6 catering for your events/patients educational seminars, and to provide any
7 Botox/juvederm give-a-aways [*sic*] or goodie bags for these events.” *See* Exh. A.

8 67. Defendant has its own internal printing vendor where its sales
9 representatives can customize posters, brochures, mailers, etc. for the individual
10 physician. Defendant’s representatives provide these printing pieces free of charge
11 to the physician. Defendant also allows its sales representatives to expense
12 thousands of dollars a month to utilize an Allergan-approved vendor to print these
13 promotional materials. These promotional pieces were not FDA-approved and
14 Defendant would provide sample content including the price of Botox® Cosmetic
15 by the unit. Not only did Defendant urge physicians to host these Botox parties,
16 but it knew exactly how these events were being promoted.

17 68. In 2008, Plaintiff attended a Botox party at the Rampart Casino with
18 one of his staff members where Allergan-retained nurse Mary Bryant trained
19 doctors using the multi-use technique.

20 69. In January 2008, pursuant to Defendant’s encouragement, Plaintiff
21 hosted a Botox party at the grand opening of his Anthem Trimcare clinic in
22 Henderson, Nevada. Defendant’s representative, Jenny Jones, attended the party
23 and also provided supplies for and promoted the party.

24 70. Even today, Defendant continues to promote Botox parties. For
25 example, on the social networking site Facebook, Arrowhead Dermatology
26 Cosmetics’ Facebook page touts their Botox parties and tells potential patients that

27
28 ²³ *Id.*

Allergan representatives will be present to help them and sign them up for awards programs.²⁴

Patient Incentive Programs

71. Since 2002, Defendant, through its representatives, advised Plaintiff and Class members that patients “prefer a Botox price by the unit” as opposed to per vial. *See* Exh. A. Allergan sponsored injector training sessions included guidance on how to build an aesthetic practice with Botox® Cosmetic. Training attendees were told that they should charge patients by the unit or by the area to be treated.

72. Defendant never told doctors to price the Product by the vial.

73. The fact that Allergan promoted to Doctors that they charge their patients by the unit and not by the vial is another indicator that Allergan knew and promoted that one vial be used for more than one patient. If one patient requires 20 units of the Product and another patient only requires 15 units of the Product, it would be economically inefficient, from a doctor’s perspective, to charge them different prices if the remaining contents of each of their 100 unit vials were going to be discarded. Per unit pricing *only* makes economic sense if there is multi-patient use of Botox vials.

74. At Botox® Cosmetic training seminars, physicians were told that after the injection training, whatever Botox® Cosmetic they had remaining in the vial, they were free to take back to their offices.

75. Defendant, through its representatives, also advised Plaintiff and Class members that they should provide incentives to ensure patient return. In May 2005, Defendant launched its “Botox® Cosmetic Benefits” program – a patient

²⁴ Arrowhead Dermatology’s Facebook Page, <http://www.facebook.com/pages/Peoria-AZ/Arrowhead-Dermatology-Cosmetics/332808417912> (last visited Oct. 19, 2010).

1 “loyalty” program which was designed to incentivize patients to return for
2 treatments, create word-of-mouth buzz, and remain loyal to his or her treating
3 physician. Pursuant to the program, patients receive a “debit” card upon their first
4 treatment. For every subsequent treatment, patients accrue rewards that may only
5 be redeemed at the same physician’s office.

6 76. In 2006, Defendant updated its Botox® Cosmetic Benefits program.
7 When a patient swipes his or her program card, the office staff types in the unique
8 vial code to authorize the transaction. The vial code for one vial of Botox®
9 Cosmetic may be entered up to five times before the code is deactivated. Thus,
10 Defendant knows, facilitates, and promotes that one vial of Botox® Cosmetic be
11 used five times to treat multiple patients.

12 77. Defendant also recommends a “Botox Express Card,” where a patient
13 earns a stamp for every ten units of Botox® Cosmetic purchased. After ten
14 stamps, the patient receives ten units for free. *See* Exh. B. If patients are paying
15 for Botox® Cosmetic treatments in ten-unit increments, this furthers Defendant’s
16 representations to physicians that patients prefer paying for the Product by the unit.
17 It is also further evidence that not only did Defendant know doctors were using
18 single vials for multiple patients, but that Defendant promoted this use through the
19 structure of its incentive and marketing programs. Again, pricing Botox by the
20 unit makes no economic sense from a doctor’s perspective if each vial is used
21 solely for a single patient. This promotion was another manner in which
22 Defendant misrepresented that a single-use vial should be used on multiple patients
23 and that doctors could build a profitable Botox® Cosmetic practice.

24 78. Defendant offered these express cards directly through a flyer to
25 Plaintiff’s patients.

26 79. Furthering a “per unit” instead of a “per vial” practice, Defendant also
27 recommends that doctors offer discounts to patients, such as a \$100 discount if the
28 patient purchases 20 units of Botox® Cosmetic along with one syringe of

Juvéderm, a wrinkle filler often used in conjunction with Botox® Cosmetic treatments. *See* Exh. C.

Botox Calculators and Sales Analysis Tools

80. Defendant created, and through its representatives, provided Plaintiff and Class members with a “Botox calculator” and “business plan worksheet” to aid them in estimating their “personalized projections regarding your injectable business.” The estimated profit to Plaintiff and Class members is calculated based on administering an entire vial of Botox® Cosmetic—an impossible feat for single-use treatment. *See* Exh. D.

81. For example, in 2008, Defendant estimated that a patient’s price for the Product was \$9 a unit. Based on this estimate and the wholesale cost of \$525 for a 100-unit vial of Botox® Cosmetic, Defendant told Plaintiff and the Class that the profit per vial would be \$375. *See* Exh. D,

82. Moreover, Defendant, through its representatives, requires Plaintiff and Class members to fill out an Account Analysis Form. Again emphasizing that Defendant promoted that a per unit charge is preferable, the Form inquires as to the office’s “average Botox® Cosmetic price **per unit.**” *See* Exh. E (emphasis in original).

Continuing Medical Education Courses and Allergan-Sponsored Events

83. CME courses sponsored by Defendant were often provided by Aesthetic Health Dimensions, a CME company to which Allergan donates money for injector trainings. Defendant is aware of and promotes these CME courses because they “are able to teach all techniques (outside of the FDA-approved glabellar line treatment for Botox)[.]” *See* Exh. F

84. Through educational grants, Defendant sponsored numerous training programs in California for both local and out-of-town participants. Participants in these training sessions were taught how to administer Botox® Cosmetic using Defendant’s multi-use method.

1 85. Plaintiff's staff members attended CME courses and reported back to
2 him.

3 86. Plaintiff also attended several seminars and CMEs, including a Facial
4 Aesthetics Conference and Anti-Aging Shows. Plaintiff also attended online CME
5 classes through the Internet. This has occurred since 2006 to the present.

6 87. Defendant also sponsored and hosted dinners and events in cities all
7 over the United States in order to court physicians and practitioners to persuade
8 them to buy Allergan products, such as Botox® Cosmetic. These dinners and
9 events frequently included guest speakers such as doctors flown out from
10 California who promoted Botox® Cosmetic and other cosmetic procedures and
11 who promoted the multi-use model for Botox® Cosmetic vials. *See* Exh. F.

12 88. Defendant instructs its sales representatives to participate in the
13 organization of these events, to sign-up as many attendees as possible, and to offer
14 free samples of the Product at these events as further incentive for attendance.

15 89. Plaintiff's Allergan representative invited him to many of these
16 dinners and events. *See* Exh. F. At the events Plaintiff attended, presenters used
17 one vial of Botox® Cosmetic on multiple patients.

18 90. Defendant's California-based representatives frequently flew out to
19 Nevada and other states to promote and sell Allergan products, such as Botox®
20 Cosmetic.

21 91. Defendant also has direct relationships with consulting firms that aid
22 physicians in building a cosmetic practice. These agents also promote multi-
23 patient use of single-use Botox® Cosmetic vials.

24 92. In short, Defendant developed an aggressive marketing program that
25 encouraged medical professionals to use Botox® Cosmetic single-use vials for
26 multi-use. Through its marketing materials to medical professionals and the
27 manner in which Defendant packaged the Product, Defendant represented that a
28 single-use vial of the Product was suitable for multiple procedures and multiple

1 patients, when in fact, the Product is not suitable for multiple procedures and
2 multiple patients.

3 93. Defendant's aggressive marketing of the Product to Plaintiff and Class
4 members and its representations regarding multiple uses of a single-use vial of
5 Botox® Cosmetic induced Plaintiff and Class members to purchase the Product
6 with the belief that their using the Product in the manner promoted by Defendant
7 was appropriate.

8 94. Defendant's promoted business model, the "Botox calculator," and
9 other promotional programs described herein, created the expectation in Plaintiff
10 and Class members that one vial of Botox® Cosmetic could be used in its entirety.
11 It created the expectation that a valid business model could be utilized by Plaintiff
12 and the Class to create a profitable Botox® Cosmetic practice. Defendant
13 purposefully and intentionally induced Plaintiff to purchase the Product by
14 indicating that Plaintiff could use a single-use vial of the Product for multiple
15 procedures and multiple patients.

16 95. Although the Product's label states that it is for single-use (in fine
17 print), it is clear that Allergan's contrary representations and aggressive marketing
18 caused physicians to think otherwise. Indeed, Defendant affirmatively told at least
19 one practitioner that Allergan could provide them with a letter telling them that
20 multi-use was allowed. Moreover, Allergan clearly packaged and priced the
21 Product in such a manner that single-use would have been uneconomical.

22 96. Allergan's representations, promotional programs, and product
23 packaging were misleading and/or untrue because they created the expectation that
24 one vial could be used for multiple patients. Allergan had a duty to clearly and
25 conspicuously disclose the dangers of multi-use to physicians and the public.
26 However, everything Allergan did – from Botox parties, to office consultations,
27 and to meetings with doctors – encouraged multi-use.
28

1 97. Defendant knew that it would not have sold as much of its Product to
 2 Plaintiff and Class members if Defendant had properly represented the Product and
 3 made adequate disclosures. When state epidemiologist for the Nevada State
 4 Health Division, Dr. Ihsan Azzam, raised concerns that a single-use vial should not
 5 be used on multiple patients, “Botox providers told him it would not be possible to
 6 make a profit if the injection practices he supported were followed.” Indeed,
 7 “Allergan [would] have to step up to the plate and make different quantities of the
 8 drug. It may cost [Allergan] a little more.”

9 98. Physicians and providers of Botox® Cosmetic contacted by the Las
 10 Vegas Review Journal “said that Allergan’s sales representatives have consistently
 11 said vials of Botox could be used for multiple patients.” One person stated, “no
 12 matter what training seminar or continuing medical education course I went to, the
 13 Allergan people always said a vial was for multiuse.” Doctors who attended
 14 Defendant’s seminars stated that “Allergan seminars have demonstrated multiple
 15 patient use of the product for years.” In the same article, although Allergan
 16 spokeswoman Kellie Reagan stated that the vial label said it was for single-use, she
 17 would not comment on how Defendant’s sales representatives promote the
 18 Product’s use.

19 **ii. Plaintiff and Class Members Were Unaware of the**
 20 **Product’s Single Use Indication**

21 99. Plaintiff was unaware of Botox® Cosmetic’s single-use indication
 22 until Spring 2008 when it was called to his attention by another Nevada physician.
 23 Subsequently, Plaintiff contacted several other physicians who were also
 24 admittedly unaware of the single-use indication for Botox® Cosmetic vials. *See*
 25 *Exh. G.*

26 100. Although the Product package may state “single use” in the fine print,
 27 Defendant’s aggressive marketing and affirmative statements that the Product
 28 could be used for multiple patients caused practitioners to think that multiple use

1 was appropriate. Any “warning” provided by Defendant’s label was clearly
2 inadequate.

3 101. In fact, Defendant’s own sales representatives were also not told that
4 one Botox® Cosmetic vial could not be used on more than one patient. Defendant
5 did not provide this information to its sales representatives or require them to
6 inform doctors. Defendant’s own training materials do not advise sales
7 representatives that one Botox® Cosmetic vial is not to be used for multiple
8 patients.

9 102. Defendant knew that doctors had been unaware of the Product’s
10 single-use directive because after the hepatitis outbreak in 2008, Defendant
11 received inquiries from doctors and doctors’ offices across the country requesting
12 information about whether one vial could be used on multiple people. Even after
13 being confronted with these inquiries, Defendant, through a representative,
14 affirmatively told or informed at least one practitioner that Allergan could write a
15 letter stating that multiple use of one Botox® Cosmetic vial was acceptable.

16 103. Even after the Nevada hepatitis outbreak and upon receiving inquiries
17 from doctors, Defendant still would not affirmatively tell doctors not to service
18 multiple patients with one Botox® Cosmetic vial. In addition, Defendant refused
19 to issue any clarification regarding the allowable use of the Product versus the use
20 indicated by the vial.

21 104. Such confusion amongst medical practitioners is not uncommon.
22 Despite approximately 125,000 patients being notified of exposure to diseases due
23 to injection practices since 1999, just recently in 2010, the CDC and the Safe
24 Injection Practices Coalition launched the “One & Only Campaign,” a public
25 health campaign raising awareness amongst healthcare providers and patients
26 regarding safe injection practices. The Safe Injection Practices Coalition began
27 pilot programs in Nevada and New York.

105. The New York State Health Commissioner recently urged health professionals to watch a safe injection training video supplied by the national Safe Injection Practices Coalition. The video “dispel[s] common misconceptions – such as the belief that it is safe to administer medication from single-dose vials to multiple patients”²⁵

iii. **Defendant’s Packaging and Pricing of the Product is Unfair because it Results in Overcharges to Plaintiff and Class Members who Administer the Product in Compliance with Safety Standards and Requirements**

106. From 2002 when Botox® Cosmetic was first approved by the FDA to May 2008, Defendant only packaged Botox® Cosmetic in 100-unit vials. However, cosmetic treatments for a single patient do not require 100 units of the Product. For example, the FDA has only approved the Product for treatment glabellar lines in a 20 unit dose. According to Defendant’s own instructions, once the Product is reconstituted, it must be used within four hours. The excessive packaging coupled with the Product’s short shelf life means that one vial of the Product cannot be fully-used for one patient.

107. Although Plaintiff and Class members paid for the use of 100 units of Botox® Cosmetic, they were unable to use the entire vial on a single patient due the fact that most cosmetic treatments do not require 100 units and the short shelf life. The majority of procedures for which Plaintiff purchased the Product required only 20 units of the Product, thus leaving 80 units (80%) of the Product wasted unless the vial was used for multiple patients.

108. Only after the hepatitis exposure in Nevada did Defendant began packaging and selling the Product in 50-unit vials. This did not solve the problem,

²⁵ NYS Health Commissioner Urges Health Care Providers to View New Safe Injection Practices Training Video,
http://www.health.state.ny.us/press/releases/2010/2010-05-26_safe_injection.htm
 (last visited Oct. 19, 2010)

1 however, because the pricing of the vials still encourages multi-use. A 50-unit vial
2 is still, in most cases, inappropriate for single-use and the 50-unit vial is priced
3 much higher on a per-unit basis than the 100-unit vial. Moreover, 50-unit vials
4 were sold in limited quantities. *See* Exh. H.

5 109. Defendant presently continues to encourage multi-use of the Product
6 by the way it packages and the manner in which it sets its pricing. Defendant sells
7 100-unit vials of Botox® Cosmetic for approximately \$525. In contrast, a 50-unit
8 vial costs more per unit, at approximately \$298 per vial. Thus, a 50-unit vial costs
9 more per unit, encouraging the purchase of 100-unit vials and multi-use.

10 110. The manner in which Allergan promotes, represents, packages, and
11 prices the Product violates CDC and state medical requirements prohibiting using a
12 single-use vial on multiple patients.²⁶

13 111. Defendant's actions also violate federal laws prohibiting advertising
14 or representations of off-label usage of drugs and the misbranding of drugs. (21
15 C.F.R. §§, 201.100, 201.128, 202.1; 21 U.S.C. §§ 331 *et seq.*, 352 *et seq.*).

16 112. Due to Defendant's representations and packaging of the Product,
17 Plaintiff was overcharged for the Product. Plaintiff was forced to discard the
18 remaining and unnecessarily purchased units of the Product. Additionally, the
19 remaining Product's approved shelf life is such that, according to Defendant's
20 instructions, the Product must be used within roughly four (4) hours. Because
21 subsequent dosages for a procedure occur well after this time limit (one glabellar
22 line treatment lasts three to four months), this precludes Plaintiff from using the
23 Product on the same patient for repeated procedures as the Product, according to
24 Defendant, is no longer safe, effective, or approved for such use.

25
26 ²⁶ *See, e.g.*, Centers for Disease Control and Prevention, FAQs for Providers,
27 http://www.cdc.gov/injectionsafety/providers/provider_faqs.html#11 ("Medication
28 vials that are labeled for single-use and pre-filled medication syringes should never
be used for more than one patient") (last visited Oct. 19, 2009).

1 113. As a result of Defendant's conduct, Plaintiff and the proposed Class
2 lost profits in the form of the unusable and discarded liquid and/or lost money in
3 the purchase price of the unusable and discarded liquid.

4 **iv. Plaintiff's Continued Purchase of Botox®**
5 **Cosmetic After 2008 Was Not Voluntary**

6 114. Plaintiff, upon learning of, and abiding by, the single-use restriction,
7 has suffered a significant reduction in profits. In addition, putative Class members
8 have lost business and profits in having to turn away patients who refuse to
9 purchase an entire vial of Botox® Cosmetic. In fact, Plaintiff and Class members
10 who devoted a significant portion of their practice to Botox® Cosmetic based on
11 the multi-use business model promoted by Defendant suffer significant financial
12 hardships, bankruptcies, and loss in revenue if they abide by the single-use
13 restriction. Plaintiff and Class members are thus faced with a Hobson's choice:
14 either (1) violate CDC and medical board requirements and safety standards, and
15 use single-use vials of Botox® Cosmetic vials for multiple patients and risk
16 sanctions and malpractice claims, or (2) suffer financial harm from their
17 significantly reduced revenue on the sale of Botox® Cosmetic treatments. *See*
18 *Exh. G.*

19 115. Plaintiff devoted substantial resources to developing a Botox®
20 Cosmetic administration practice at several locations, in part, using Defendant's
21 multi-use business plan and profit calculators. Plaintiff incurred marketing,
22 staffing, equipment, and various business startup and planning expenses.

23 116. For example, Plaintiff estimates that his start up costs were in excess
24 of \$1 million. The costs incurred included hiring staff (physicians and mid-level
25 physicians assistants and nurse practitioners), marketing, advertising, inventory,
26 promotional materials, and equipment for treatment stations and rooms. Plaintiff's
27 clinic sizes and costs approximated:
28

- 1 • Pueblo Medical Center: approximately 5000 sq. ft. and estimated costs in
- 2 excess of \$200,000 in rent and upgrades.
- 3 • Tropicana Medical Center: approximately 5000 sq. ft. and estimated costs
- 4 (of \$250,000.
- 5 • Anthem Trimcare: approximately 4400 sq. ft. at and estimated costs of
- 6 \$250,000
- 7 • Galleria: estimated purchase price of \$60,000 for the site and \$100,000 for
- 8 miscellaneous expenses.
- 9 • Lone Mu: approximately 4000 sq. ft. and estimated costs of \$200,000.
- 10 • Flamingo Trimcare: estimated costs of \$60,000.

11 117. When Plaintiff began to see the volume of patients necessary to justify
 12 these business expenses, he learned that his business model, promoted and
 13 supported by Defendant, was in violation of the single-use directive, CDC, and
 14 state medical board guidelines. Plaintiff will never see a return on the vast
 15 majority of his business development investment.

16 118. Plaintiff is aware of numerous other Class members who incurred
 17 substantially similar expenses while relying on Defendant's misrepresentations.
 18 Plaintiff is aware of Class members who have been forced to shut down their
 19 establishments as a result of purchasing the Product based on Defendant's
 20 representations regarding using one vial of Botox® Cosmetic multiple times and
 21 later failing to make a profit due to the vial's single-use directive.

22 119. Plaintiff was forced to discard a substantial amount of the Product
 23 valued at thousands of dollars after being informed that the vials cannot be used for
 24 multiple procedures among several patients. To the extent that Plaintiff continued
 25 to purchase vials of the Product after learning of its single-use limitation, he did
 26 not do so voluntarily. He was forced to do so to protect his investment in
 27 developing a practice based on the Product. Defendant's fraudulent marketing
 28 scheme and unfair and unlawful business practices had locked Plaintiff into

1 continuing to purchase the Product or give up entirely his cosmetic practice with
2 even greater loss of investment, revenue and profit.

3 120. Plaintiff's reliance on Defendant's marketing which promoted the
4 multi-use of a single Botox vial had caused him to incur significant expenses to
5 startup and market his practice. A significant portion of his patients and revenue
6 came from his ability to provide Botox® Cosmetic treatments at competitive
7 prices, and thus, both acquire and retain patients who wanted Botox® Cosmetic
8 treatments, along with other cosmetic treatments.

9 121. After learning of the single-use restriction of Botox® Cosmetic vials,
10 Plaintiff was forced to continue to purchase Botox® Cosmetic and provide
11 treatments at a significant degradation in profits, and even at a loss, in order to
12 mitigate the loss he would suffer were he to discontinue offering Botox® Cosmetic
13 treatments at competitive prices. Specifically, if Plaintiff discontinued offering
14 Botox® Cosmetic treatments or significantly increased the price of such
15 treatments, not only would he lose the capital investments and goodwill he had
16 created from marketing his Botox® Cosmetic practice, he would also lose the
17 continuing revenue from many patients who would go to other physicians for *all* of
18 their cosmetic treatments, not just Botox® Cosmetic treatments, and thus, also lose
19 a significant amount of the capital investments and goodwill of the entire medical
20 practice which he had built. Indeed, Defendant, through its representatives, told
21 Plaintiff to "utilize Botox as a TOOL to its full potential to **cross-sell** other
22 products, services, surgeries within your practice." (emphasis in original). *See*
23 Exh. A.

24 122. Defendant essentially has a monopoly on onabotulinumtoxinA.²⁷
25 Thus, Defendant has the power to impose overcharges on physicians who have
26 built Botox® Cosmetic practices because the physicians are locked into the

27
28 ²⁷ Although Dysport, was recently introduced in 2009 and is similar to Botox®
Cosmetic in that it also treats glabellar lines, the two products are still different.

1 product as a result of Allergan's unfair and misleading business practices.
 2 Defendant's marketing of Botox® Cosmetic to patients created a demand for the
 3 Product. In turn, Plaintiff and other physicians were locked into continual
 4 purchased of the Product in order to maintain their relationships with their patients.

5 123. Thus, Plaintiff's reliance on Defendant's misrepresentations during
 6 the time period before Plaintiff learned that multi-use of Botox® Cosmetic vials
 7 was prohibited is a direct and proximate cause of the economic losses he suffered
 8 from his continued purchase of the Product after he learned of the single-use
 9 restriction of Botox® Cosmetic vials. Further, Defendant's continuing
 10 misrepresentations to other physicians, and the pricing expectations Defendant's
 11 misrepresentations have created in patients, are further direct and proximate causes
 12 of Plaintiff's economic losses after learning of the single-use restriction of Botox
 13 vials and abiding by such single-use restrictions.

14 **CLASS ACTION ALLEGATIONS**

15 124. Plaintiff seeks relief in his individual capacity and seeks to represent a
 16 class consisting of all others who are similarly situated. Pursuant to Fed. R. Civ. P.
 17 23, Plaintiff seeks certification of a class initially defined as follows:

18 **All direct purchasers of Botox® Cosmetic who purchased the Product**
 19 **from Allergan and Allergan authorized distributors from 2002 to the present.**

20 125. Excluded from the Class are Defendant and its subsidiaries and
 21 affiliates, Defendant's executives, board members, legal counsel, and their
 22 immediate families.

23 126. Plaintiff reserves the right to amend or modify the Class definition
 24 with greater specificity or further division into subclasses or limitation to particular
 25 issues.

26 127. Numerosity. The potential members of the Class as defined are so
 27 numerous that joinder of all members is unfeasible and not practicable. While the
 28 precise number of Class members has not been determined at this time, Plaintiff is

1 informed and believes that Defendant, during the relevant time period, wrongfully
 2 marketed the Product to hundreds of people, including medical professionals.
 3 Defendant's records will provide information as to the number, location, and
 4 identification of all Class members.

5 128. Commonality. There are questions of law and fact common to the
 6 Class, which predominate over any questions affecting only individual Class
 7 members. These common questions of law and fact include, without limitation:

- 8 a. Whether Defendant represented that a single vial of Botox® Cosmetic
 9 could be used for multiple patients;
- 10 b. Whether Defendant failed to disclose clearly and conspicuously
 11 material facts, such as the dangers in using a single-use vial of
 12 Botox® Cosmetic for multiple patients;
- 13 c. Whether Defendant's representations and promotional programs were
 14 untrue and/or misleading;
- 15 d. Whether Defendant's packaging and pricing of the Product resulted in
 16 overcharges to Plaintiff and Class members;
- 17 e. Whether Defendant violated California Business and Professions
 18 Code sections 17500, *et seq.*; and
- 19 f. Whether Defendant violated California Business and Professions
 20 Code sections 17200, *et seq.*

21 129. Typicality. The claims of the named Plaintiff are typical to the claims
 22 of the Class. Plaintiff and all Class members were exposed to uniform practices
 23 and sustained damages arising out of and caused by Defendant's unlawful conduct.

24 130. Adequacy of Representation. Plaintiff will fairly and adequately
 25 represent and protect the interests of the members of the Class. Counsel
 26 representing Plaintiff is competent and experienced in litigating class actions.

27 131. Superiority of Class Action. A class action is superior to other
 28 available methods for the fair and efficient adjudication of this controversy since

1 joinder of all the members of the Class is impracticable. Furthermore, the
2 adjudication of this controversy through a class action will avoid the possibility of
3 inconsistent and potentially conflicting adjudication of the claims asserted herein.
4 There will be no difficulty in the management of this action as a class action.

5 **FIRST CAUSE OF ACTION**

6 *Violation of the False Advertising Law*

7 *(Cal. Bus. & Prof. Code § 17500)*

8 132. Plaintiff, on behalf of himself and all others similarly situated, repeats
9 and re-alleges the foregoing paragraphs, inclusive, and incorporates the same as if
10 set forth herein at length.

11 133. Defendant has engaged in false advertising within the meaning of
12 California Business and Professions Code sections 17500, *et seq.* based on the
13 conduct herein alleged. As a result of Defendant's conduct, Plaintiff suffered
14 injury in fact and lost money or property.

15 134. Defendant's representations and actions emanate from its
16 headquarters, which is based in this state, and were disseminated to the public in
17 California and other states through Defendant's agents, promotional events, and
18 sponsored training courses.

19 135. Through its agents, marketing materials, promotional events, and
20 sponsored training courses, Defendant represented that one vial of the Product is
21 suitable for multiple patients and that a successful practice could be built on selling
22 the Product on a per unit basis to the public. Defendant also failed to disclose
23 material facts, namely, the dangers and risks in using one vial of the Product for
24 multiple patients.

25 136. Defendant knew or should have known that its representations that a
26 vial of the Product is suitable for multiple patients and its non-disclosures were
27 untrue or misleading. Defendant made these representations and non-disclosures
28 with the intent to induce Plaintiff and Class members into purchasing the Product.

- 1 c. Promoting Botox® Cosmetic contrary to federal and state medical
2 requirements.

3 142. Defendant's business practices are unlawful in that its conduct
4 constitutes a violation of the False Advertising Law (Cal. Bus. & Prof. Code, §§
5 17500 *et seq.*), violations of FDA Regulations prohibiting off-label marketing (see
6 21 C.F.R. §§, 201.100, 201.128, 202.1; 21 U.S.C. §§ 331 *et seq.*, 352 *et seq.*), and
7 violations of state and administrative regulations and requirements.

8 143. Defendant's unfair business practices include, but are not limited to:

- 9 a. Promoting Botox® Cosmetic for use in an unsafe manner;
10 b. Promoting Botox® Cosmetic contrary to its indications;
11 c. Promoting Botox® Cosmetic in a manner prohibited by the Center for
12 Disease Control, and thus, in a manner contrary to public policy;
13 d. Promoting Botox® Cosmetic in a manner prohibited by various state
14 medical agencies and medical boards, and thus, in a manner contrary
15 to public policy;
16 e. Packaging Botox® Cosmetic in such a way that Plaintiff and Class
17 members could not concurrently administer it in the manner
18 advertised by Allergan representatives and comply with the single-use
19 directive;
20 f. Packaging Botox® Cosmetic in such a way that results in overcharges
21 to Plaintiff and Class members; and
22 g. Promoting a business model that required Plaintiff and Class members
23 to administer Botox® Cosmetic in a manner that was unsafe, contrary
24 to its indications, and contrary to CDC and state requirements.
25 h. Locking-in Plaintiff and Class members to continued purchases of
26 Botox® Cosmetic.

27 144. Defendant's business practices are unfair because they offend
28 established public policy against using a single-use vial on multiple patients.

1 Defendant's practices are immoral, unethical, oppressive, unscrupulous and or
2 substantially injurious to Plaintiff and Class members. There is no justification for
3 Defendant's conduct. Any economic benefit to Defendant is outweighed by the
4 gravity of the consequences to the Public, such as the risk of contracting a disease,
5 and to Plaintiff and Class members because, among other things, Defendant's
6 conduct results in overcharges to physicians and sets them up for potential
7 sanctions from their state medical boards.

8 145. Defendant's business practices are further unfair in that they violate
9 the established policy and spirit of the laws set forth in Paragraph 142.

10 146. Defendant's unfair business practice caused Plaintiff substantial harm
11 in the amount of thousands of dollars invested in the development of a cosmetic
12 practice based on the Product and spent purchasing and subsequently discarding
13 the Product and thus, Defendant's unfair practice is not outweighed by any
14 countervailing benefit to Plaintiff or Class members. Plaintiff could not have
15 reasonably avoided this harm while simultaneously complying with the Product's
16 single-use directive.

17 147. Defendant's fraudulent business practices include, but are not limited
18 to:

- 19 a. Promoting Botox® Cosmetic for unsafe uses;
- 20 b. Promoting Botox® Cosmetic contrary to its indications;
- 21 c. Providing profit calculators that based profits on a use of a single vial
22 on multiple people; and
- 23 d. Failing to disclose and/or adequately disclose material information,
24 including the nature of the vials as single-use and not multi-use, and
25 the unprofitable nature of the Product
- 26 e. Failing to disclose and/or adequately disclose the material information
27 that that practice of using a single vial of Botox® Cosmetic for
28 multiple patients promoted by Defendant was contrary to the

1 recommendations of the CDC, various state health agencies, and
2 various state medical boards.

3 148. Defendant's business acts are fraudulent because Defendant's
4 represented business model, profit calculator, and other acts as alleged in detail,
5 *supra*, created in Plaintiff and Class members the expectation that the Product was
6 safe and suitable for multiple uses on multiple patients, contrary to the Product's
7 label. Defendant failed to disclose the relevant information that its business model
8 was contrary to the Product's single-use directive. Defendant's failure to disclose
9 this information was likely to deceive reasonable people and did deceive Plaintiff
10 and Class members into believing that one vial of Botox® Cosmetic was suitable
11 for multi-use.

12 149. Defendant made the representations, *supra*, while knowing that using
13 a vial of the Product according to the label's single-use directive would not
14 adequately compensate Plaintiff and Class members for the investment Plaintiff
15 and Class members made in developing practices based on the Product and for the
16 money spent in purchasing the Product.

17 150. In reliance on Defendant's representations, Plaintiff invested in
18 developing a cosmetic practice based on the Product and purchased the Product
19 with the belief that one vial could be used multiple times; he was subsequently
20 deprived of the ability to use all of the Botox® Cosmetic in each vial and suffered
21 actual and monetary injury by having to discard the unused Product, and losing
22 some or all of his investment in developing the practice.

23 151. Plaintiff has standing to pursue this claim because he has suffered
24 injury in fact and loss of money and/or property as a result of the wrongful conduct
25 alleged herein. Defendant's business acts and practices, as alleged herein, have
26 caused injury to Plaintiff, the Class, and the public.

27 152. Pursuant to California Business and Professions Code section 17203,
28 Plaintiff and Class members seek all relief available thereunder including,

equitable relief, in the form of restitution or disgorgement, by Defendant for Botox® Cosmetic that Plaintiff and Class members could not use because of unlawful and unfair business practices, and/or disgorgement of all revenues, earnings, profits, Defendant's compensation and benefits which may have been obtained by Defendant as a result of such business acts or practices, and an injunction enjoining Defendant from its unlawful and unfair business activities as alleged herein.

153. Pursuant to California Business and Professions Code section 17203, Plaintiff and Class members seek all relief available thereunder, including equitable relief, in the form of restitution or disgorgement, by Defendant for Botox® Cosmetic that Plaintiff and Class members could not use because of unlawful and unfair business practices, and/or disgorgement of all revenues, earnings, profits, Defendant's compensation and benefits which may have been obtained by Defendant as a result of such business acts or practices; and an injunction enjoining Defendant from its unlawful and unfair business activities as alleged herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for himself and on behalf of a Class similarly situated, against Defendant as follows:

1. For an order certifying the proposed Class herein under Federal Rule of Civil Procedure 23 and appointing Plaintiff, and his counsel to represent said Class, under Federal Rule of Civil Procedure 23(g);

2. For restitution, disgorgement and/or compensatory damages as permitted by law in an amount to be determined at trial;

3. For an order pursuant to California Business and Professions Code sections 17200, *et seq.* and 17500, *et seq.*, enjoining, among other things, Allergan's conduct in advertising Botox® Cosmetic contrary to its indications and applicable laws, regulations, requirements and safety standards;

1 4. For an order pursuant to California Business and Professions Code
2 sections 17200, *et seq.*, and 17500, *et seq.* enjoining, among other things, the
3 manner in which Allergan packages Botox® Cosmetic such as that it results in
4 multiple use contrary to its indications and applicable laws, regulations,
5 requirements and safety standards;

6 5. For prejudgment and post judgment interest on all damages as is
7 allowed by the laws of the State of California;

8 6. A declaration that Allergan is financially responsible for notifying
9 Class members of the pendency of this suit;

10 7. An award providing for payment of reasonable costs of suit;

11 8. An award for attorneys' fees; and

12 9. For such other and further relief as the Court deems just and proper.

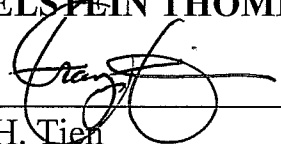
13 **DEMAND FOR A JURY TRIAL**

14 Plaintiff demands a jury trial for the Class on all claims so triable to a jury.

15 Respectfully Submitted,

16
17 DATED: October 19, 2010

FINKELSTEIN THOMPSON LLP

18 
19 _____
20 Tracy H. Tien
21 Rosemary M. Rivas
22 100 Bush Street, Suite #1450
23 San Francisco, CA 94104
24 Phone: (415) 398-8700
25 Fax: (415) 398-8704

26 Matthew J. Sill (pro hac vice)
27 James D. Sill (pro hac vice)
28 **SILL & MEDLEY**
14005 N. Eastern Ave.
Edmond, OK 73013
Phone: (405) 509-6300
Fax: (405) 509-6268

E-mail: matt.sill@sillmedleylaw.com
jim.sill@sillmedleylaw.com

Tracy D. Rezvani (pro hac vice)
FINKELSTEIN THOMPSON LLP
1050 30th Street, N.W.
Washington, DC 20007
Phone: (202) 337-8000
Fax: (202) 337-8090
E-mail: trezvani@finkelsteinthompson.com

Michael L. Kelly
Behram V. Parekh
2361 Rosecrans Avenue, Fourth Floor
El Segundo, CA 90245
Phone: (310) 536-1000
Fax: (310) 536-1001
KIRTLAND AND PACKARD LLP
E-mail: mlk@KirtlandPackard.com
bvp@KirtlandPackard.com

Counsel for Plaintiff Ivan Goldsmith

CERTIFICATE OF SERVICE

I, Julia Dito, declare as follows:

I am employed by Finkelstein Thompson, 100 Bush Street, Suite 1450, San Francisco, California 94104. I am over the age of eighteen years and am not a party to this action. On October 19, 2010, I served the following document(s):

THIRD AMENDED CLASS ACTION COMPLAINT

☒ **BY U.S. MAIL:** I mailed the foregoing via first-class U.S. mail, postage prepaid, to the participants at the addresses listed below.

Robert F. Kethcart
SNELL & WILMER LLP
400 East Van Buren
Phoenix, AZ 85004

Brendan M. Ford
Ellen Lynn Darling
Daniel S. Rodman
SNELL & WILMER LLP
600 Anton Blvd., Suite 1400
Costa Mesa, CA 92626

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed this 19th day of October 2010 at San Francisco, California.


Julia Dito

Exhibit A

Tips for Success

Always remember.....Focus on Building your REFERRAL Base and RETAINING your existing customer base (through #1 patient education, and #2 advanced optimal injection patient treatment outcomes.) Imagine every 1 patient as 100 patients (in word of mouth – positive or negative.) If you currently have a large patient database, utilize this to your advantage, and utilize Botox as a TOOL to bring a patient in every 3-4 months, to establish a strong relationship with your patients through consistent, regular visits, to cross-sell (cross-educate) other products and services (ie: surgeries), and to increase patient referrals.

1. Make sure your telephone receptionist is trained on "telephone skills," and trained on how to answer questions about Botox and Fillers. (75-90% is telephone contact & first impression, and the receptionist has 15 seconds to make a positive or negative impression for your practice.) 68% of patients cited staff discourteousness for seeking care else where. Answer the phone by the 2nd ring; check back every 20-30 seconds to patients on hold. Be skilled at credentialing the qualifications of the injector, be skilled and qualified to answer all questions (what it is, how it works, where it goes), be able to clearly verbalize the prices of each product, as well as how long each product lasts (under-promise and over-deliver). (Patients are savvy – reconstitute to package insert protocol standards, and sell by the unit vs. the area.)
2. Please Inquire if you are interested in my emailing your practice the "telephone skills/telephone etiquette" power point presentations.
3. Play a pre-recorded "On-Hold" message advertising your aesthetics practice and treatments. (www.televox.com, greerm@televox.com, www.mjdcpr.com/products/messages-on-hold, www.usadata.com, www.infousa.com, www.acculeads.com, comonhold@aol.com, www.commercialsonhold.com,)
4. Pro-Actively Dispel the Myths of Botox and Fillers – be able to answer "What it is, How it Works, and Where it Goes" for every product. Pro-Actively answer questions about safety and the affects of long-term use (establish the educational foundation for every patient). The most common myths are: expressionless, frozen face, can't move your eyebrows, accumulation of botulism or toxins in the body, permanently alter the facial structure, won't look natural, will look like you've had "work done." Avoid words like paralyze or freeze, poison or toxin (utilize words like "relax" and "purified protein" – explain that Botox is processed into a purified protein – and is not a botulism. – Make the comparison to how Penicillin is a "purified" form of mold – an antibiotic that revolutionized medicine.) 69% of patients have safety concerns, and 39% of users still have safety concerns. (Patient Education is Key.)
5. Make sure your practice is listed on the www.botoxcosmetic.com and www.juvederm.com websites. To be listed your practice must first enroll in APP (Allergan Partner Privileges at www.allergannetwork.com, enter your account # as your username and password.) (Need to purchase 10 vials of Botox, and 10 boxes of Juvederm to be on each website, respectively.)
6. Set aside specific Aesthetic Treatment Days (so patients can be seen in an organized, systematic, uniform way)– Set aside specific days to inject Botox and Fillers – Aesthetics Patients need to be able to book an appointment in a convenient timely manner (be able to offer an appointment within 48 hours of their phone call).
7. Aesthetics Patients don't like to be kept waiting in the waiting room (schedule your patients appropriately – remember "new" patients take longer to consult and treat.)
8. Make the Aesthetics environment peaceful, pleasing, neat, and organized.
9. Offer great bedside manner, and take time (20-30 minutes) with each "new" patient to properly assess their needs (create a "customized treatment plan" for every patient – and update this plan regularly as their interests may change from month to month.)

10. Always call two days prior to remind patients of their appointments (on cell phones and home phones).
11. Always call patient after treatment (within 48 hours) to check how they are doing.
12. Collect Email Addresses from patients – in order market by “E-Blasts” – promotional specials, and patient educational newsletters, and send treatment reminders. (Redi-Mail Direct Email Marketing – for assistance on setting up E-blasts – contact, Vince Stallone vstallone@redimail.com 973-808-4500, ext. 216) (also, www.televox.com, greerm@televox.com).
13. Only 3% of the 27 million patients (who meet the aesthetic demographic of 35-55 yrs of age with a 55K income per year) are utilizing Botox. (Patient Education, dispelling the myths of Botox, will grow the aesthetics market as a whole, which will ultimately help your practice most.) Differentiating Botox from fillers is essential (what it is, how it works, where it goes – know each product and “the science” behind each product very well.)
14. Include a Credentialing Bio in the front insert of your Brochure describing your injection training.
15. Include Before and After Pictures in your Brochure of Treatments (a picture is worth a 1000 words.)
16. Include Prices of Services in your Brochure (as an interchangeable insert.) (Patients want to see Prices; otherwise, they feel “speculative” about the value for services/treatments they are receiving.) (Patients want to know how you reconstitute/dilute Botox, and patients prefer a Botox price by the unit.)
17. Print a “referred by” empty, blank, white box on the back of every Brochure you have (especially on the brochures of your “menu of services”)—and have printed “\$25 Gift Card for Every Person You Refer.” This will allow the person to write in their name, and you can reward the person who has sent you the referral with a \$25 gift card to use for any product/service in your practice. Turn your patients into your own personal “sales force” by incentivizing them to send you referrals. The \$25 gift cards will also bring in the existing patients more often, and they will in-turn spend even more on products/services within your practice. They will also be more inclined to “tip” their injectors, aestheticians, laser techs more (which will keep your staff happy & motivated to offer optimal customer service to your patients.).
18. Have a solid referral program in place (\$25 Referral Gift card specific to your practice—to encourage your existing patients to send you more referrals. This also show Customer Appreciation – it shows that you value their loyalty and their referrals – a win-win relationship).
19. Have a Blank \$ Amount “Gift Card” set up in a stand directly at your cash register/check out desk – a gift card that your existing patients/clientele can purchase for gifts for their friends and family, to use within your practice.
20. Send out Treatment Reminder Cards every 3 months (Have patients fill out their name and address on the treatment reminder card, and keep these cards in a tickler file, to be mailed out every 3 months – similar to a dentist sending treatment reminders for dental cleanings. – also E-Blast treatment reminders by email.)
21. Always remember to have your receptionist Re-Book your Botox or Filler patient’s next appointment BEFORE they leave the office. Always call, and send Treatment Reminder Cards to your Botox and Filler patients – consider adding a little incentive (perhaps offering \$off one of the other services in your practice, or a \$special for Botox, to get them coming back consistently every 3-4 months. 41% of patients who come back every 3-4 months for their Botox appointment will eventually purchase other services in your practice (this is called “conversion”). Botox has a 98% patient Satisfaction Rate – it is a great tool – to help build your practice, and build your conversion (cross-selling) business for other products, services, and surgeries in your practice.
22. Offer you patients “complimentary” re-applications of their make-up after their treatments with your exclusive make-up line that you sell within your practice. This will help patients “feel and experience” your make-up line; and help you sell more make-up. It is also a nice customer service gesture, to re-apply their make-up after their treatments.

21. If a patient calls to schedule a laser appointment, while the patient is on the phone, have the receptionist immediately pull up "last injection history" from the computer, and ask them if they want to re-book their Botox and Filler appointment for the same day as their laser treatment, or another day if they chose.
23. Search your database for patients who have not yet returned for their Botox treatments in 3-4 months, and send them treatment reminder cards, emails or phone calls. Consider rewarding a staff member with \$5 for every patient they re-book who actually follows through with a treatment (generated from the staff member's phone call.)
24. Have your Allergan Rep run a "Botox Retention/Return Rate Analysis" Spreadsheet for your practice (do this regularly – so you can track and maintain your Botox retention/return rates.)
25. Search your database for Botox patients who haven't tried fillers, and Filler Patients who haven't tried Botox, and cross market to them by sending out promotional mailers, educational newsletters, etc. Consider rewarding a staff member with \$5 for every patient they book who actually follows through with a new "conversion" treatment.
26. Have a "Botox-Bounce-Back Promotion"- Consider offering patients an incentive—for example, \$25-50 off their Botox if they pre-book their Botox appointments every 3-4 months, and actually keep their appointments and get treated.
27. Consider offering patients \$25-50 off each Botox treatment – if they keep their Botox appointments, and do not cancel or change their appointments, and actually follow through with treatment.
28. Also consider offering to pre-book patients' Botox appointments for the entire year. Perhaps consider tying in an incentive for patients – for those patients willing pre-book or even pre-pay for their Botox treatments/appointments for the entire year.
29. Utilize Botox as a TOOL to bring patients back to your office every 3-4 months – utilize Botox as a TOOL to its full potential to cross-sell other products, services, surgeries within your practice. Botox is a "business-builder." Botox has "drawing power." It has a 98% customer satisfaction rate, and it is a "household" name. \$55 million in DTC ads are put behind the Botox per year, and \$16 million behind Juvederm per year, to drive patients into your practice, and create more educated aesthetics patients – more educated patients who are more knowledgeable on the safety, efficacy, and benefits of each product.
30. Have Patients fill out an Aesthetic Cosmetic Interest Questionnaire to identify their needs, and follow up with having them fill out a customized, Personalized Aesthetic Treatment Plan for the year (breaking down their "personalized treatment plan" into a monthly plan for the entire year). Have the questionnaire with a pencil – laying on top of the coverlet/gown for patients to fill out after they change – this will help laser techs and aestheticians engage the patient about their interests in products and treatments – it will serve as a door opener for conversation and patient education. Have patients fill out this questionnaire every 3-4 months; their needs may change from quarter to quarter – perhaps they will be interested in a treatment/procedure next quarter, that they weren't interested in prior – this will help uncover their needs, and help you address their needs.
31. Offer Patients Two Separate Treatment Plans to choose from: 1. Correction, and/or 2. "Total Correction" – Give Patients the prices and treatment suggestions for each plan – and let the patient decide on which personalized treatment plan they want to

purchase or eventually "graduate" to. Sell the idea of "Total Facial Enhancement or Total Facial Rejuvenation."

32. Aesthetically minded patients want to be educated, and they want solutions to meet their individual preventative skin care needs. Set your practice apart – as giving the best education to each and every patient (get your entire staff involved in this education process.) This will build credibility with your patients.
33. Consider rewarding Aestheticians and Laser techs for educating patients and booking Botox and Filler Patients who actually follow through with an actual treatment –for those Laser or Aesthetics patients who have not tried either Botox or Filler before.
34. Incentivise your Staff to Pro-Actively Educate patients and Cross-Sell (Cross-Educate) in some way, shape or form – this will grow your business, and create a Positive Environment FOCUSED on education, and Optimal Patient Outcomes/Satisfaction – establish this foundation, and success will follow.
35. If you have an aesthetician or laser tech on staff....consider setting up your credit card machine to have a "tip line" printed on the receipt. Sometimes patients may forget to tip their aestheticians, laser techs or Injector simply because they are in a "medical setting" and forget to tip. This "tip line" on the credit card receipt can be a great tool to increase optimal customer service and patient care.
36. Hang "Before and After" pictures on the backs of every door (or the side wall) of every treatment and exam room with a small mirror hanging underneath – when patients look into the mirror they will "visualize" their potential "after picture." (also put before and after pictures, and brochures in the restrooms.)
37. Place Botox and Juvederm Patient Brochures and Posters in every Treatment room. (Always have treatment brochures in EVERY exam room at all times; put your "practice stamp" on every brochure – call 800-377-7790 or 714-246-6484 at anytime to have Botox and Juvederm patient brochures mailed to you.
38. Play a Botox and Juvederm DVD Loop on the TV in the waiting room, and at Open Houses or patient education seminars.
39. Coordinate your messaging and marketing to your patients with the Allergan DTC campaigns: Lose your Elevens, Keep the Wisdom Lose the Lines, Express Yourself, There is a Place for Parenthesis but not on your Face, Look as Good as You Feel, Everyone will Notice but No-one will Know.
40. Relax (Botox), Fill (Juvederm Ultra), and Volumize (Juvederm Ultra Plus). Juvederm Ultra Plus is 20% thicker than Juvederm Ultra. For optimal treatment outcomes, utilize both Juvederm Ultra and Juvederm Ultra Plus to address the specific treatment outcomes desired by your patients.
41. Send out a monthly or quarterly Educational Newsletter to Patients. Hand the Monthly or Quarterly Newsletter to patients to read while they are in the waiting room and send a copy home with them to read. (Get your staff involved, your aestheticians, laser techs, injectors – have each person contribute a segment to each month's newsletter – this will help personalize and credential each staff member.) Address topics such as Daily Home Preventative Skin Care Regimens, the importance of a daily manual exfoliant, the lifecycle of the epithelial skin cell and importance of cellular turnover, The role of Hyaluronate in our bodies/skin/joints and depletion with age, Importance of Hydration, Descriptions of the various skin-types (talk about overproductive oil glands caused by "dehydration" which is quite prevalent in the desert climate), Hyper-pigmentation, Melasma (caused by pregnancy and/or Abrupt Hormonal Fluctuation), Chloasma, the best "types" of Sun-Screen Protection UVA/UVB protection/parasol 1789/titanium dioxide, Importance of Antioxidants to protect against UV Rays/Environmental Pollution/Cigarette Smoke/free radical damage, how to prevent telangiectasia (broken facial capillaries), Explain the purpose of each ingredient in a Daily Skincare line, Explain the importance of pharmaceutical/medical grade skincare line vs. a department store line, Explanation of the protocol and importance of regular Chemical Peels, Explaining the differences between light, medium and deep chemical peels, Explain the Ingredients and purpose of glycolic, salicylic, lactic, trichloroacetic Chemical

Peels and appropriate skin types for each, Explanation of Enzyme Peels, Explanation of Retinoic Acid, Explanation of Laser treatments, Explanation of Botox (topics such as dispelling the myths of Botox, Botox reconstitution technique, Botox pricing by unit vs. area, Danger of illegal Neuro-toxins), Explanation of Fillers, Explanation of the preventative science behind Hyaluronate gel – not just filling but working on a "cellular level", Discussion about the science behind the "duration" of fillers, Explaining ingredients in each filler– topics such as "what's in a syringe" – explaining "relevant" product that lasts vs. the anticipatory volume loss of "needle-extrusion-additives," Explanation of the science behind enzymatic breakdown and the body's metabolism of fillers, Discussion on combination/multiple filler usage for various purposes, Explanation of where fillers are injected and why (deep dermis, reticular layer, etc.), Discuss the importance of Advanced Injection Technique. — Patients are so overwhelmed, so confused –they are starving for education – any aesthetically minded patient who finds his/her way into your practice truly desires knowledge about preventative skin care. Set your practice apart – and offer this knowledge. Always explain, 1. what it is, 2. how it works, 3. where it goes for every product and treatment offered in your practice.

42. Consider hosting a weekly or monthly Patient Educational Seminar at your office or reach out to the community — make this an open forum for patients to learn and ask questions.
43. 72% of Botox users hear about Botox through a friend (Patient Education is Key – the "friend" should have the foundational knowledge and proper education to pass on the "proper" information about Botox and Fillers.
26. If your Practice has great "drive-by-visibility" – capitalize on this advantage – hang vinyl banners advertising a price per unit that has "drawing power," and set up A Frame Stand & Signs near the road, advertising a price per unit – for drive by traffic to see.
27. Purchase Zip code lists to market and to recruit new customers—there is a 3% return rate on investment rate. (www.USDataCorp.net/MailingLists, www.infousa.com, www.usadata.com, www.mailing-lists-direct.com), and Dunn Hill International.
44. Advertise on the radio, and/or TV. (especially for Patient Educational Seminars held weekly "on Preventative Skin Care," etc...) Patients are starving for information – and proper education (to diminish "confusion") on preventative skincare.
45. Advertise in country clubs or community center newsletters, and rent display booths on their "vendor days."
46. Partner with Aesthetic/Cosmetology Schools, Salon Stylists, and Make-up Artists.
47. Partner with Hotel Resort Spa Directors – for local resident referrals.
48. Offer special "discount cards" for hotel employees, hotel aestheticians, cocktail waitresses, aesthetic students/teachers, etc – in addition to offering them your brochure (with the \$25 Referral Ad printed on your brochure). This will surely bring in more referrals.
49. Rent Display booths, and advertise in Fitness Centers.
50. Place your brochures (with the \$25 Referral Ad printed on your Brochure) with business owners (partner with anyone with a database of potential patients). Boutiques, Yoga Studios, Make-up Artists, etc.
51. Do as many promo/event mailers as you possibly can, and host as many "injection days, weeks or months" events, seasonal open houses/patient educational seminars as you possibly can.
52. Do "live injections demos" for patients to observe at any and all open houses/patient education events.
53. Allow your staff, patient consultants, and injectors to "experience" the products for themselves. If they personally experience Botox and Juvederm, they can truly more effectively communicate their experiences with patients – and in turn, sell more product. Personal "testimonials" are an incredible TOOL to grow your business, and instill "confidence" within your patients from "experienced" staff member about the

products and services offered within your practice. You will have a "happier staff" who is willing to SELL more for you. Botox and Filler injections for your staff perhaps can be tied into some sort of "incentivizing program" for your staff – encouraging your ENTIRE staff to Sell and Educate. (Anyone from the receptionist who answers the phones, to each and every aesthetic team member.) Consider, setting aside a portion of "product rebates" to use for an incentive program for your staff members. (The #1 Botox Accounts in the Nation do this very effectively, and have utilized a solid Staff Incentive Program to build their Practices.)

54. A strong Staff Incentive Program, a Strong Patient Referral Program with \$25 off for every patient sent, Patient Education, and Advanced Optimal Injection Outcomes – will and has effectively built successful aesthetics practices across the nation.
55. Always Have Patients "bring a friend" to each and every event or open house – and reward them for bringing their friends with referral gift cards to utilize on future visits within your practice.
56. Utilize the resources of your Allergan Rep – to support you with printing for your event mailers, catering for your events/patients educational seminars, and to provide any Botox/Juvederm give-a-aways or goodie bags for these events. I am also happy to print up any mailers, invitations, or posters that you may need for these events.
57. Remember to plan ahead, and maximize your promotional efforts, and strategically coordinating your marketing efforts with the peak seasonal time frames throughout the year— have your printing, promos, and open houses strategically set in place. Remember, ideally, all event mailers, and seasonal mailers should go out 3 weeks prior to the event (to get a maximum return and RSVPs.)
58. Consider creating a Quarterly Business Plan—a clearly devised marketing strategy set in place for the ENTIRE year; correlating with the 4 quarters of the year (Encourage your staff to attend these planned events to Promote your Practice as a TEAM – "Together, Everyone Achieves More.")1st Q (Christmas, New Years, and Valentines day), 2nd Q (Spring, Mother's Day, Memorial Day Weekend, Graduations, Weddings, Preparing for Summer vacations), 3rd Q (Father's Day, Back to School Specials, Summer Vacations, Class Reunions), 4th Q (Labor Day, Fall Specials "Fall into Beauty," Halloween "Scare away the lines," Thanksgiving, Winter Specials.) And most importantly, always have a way to "measure" your success – measure the return on your investment.
59. Strive to Reach Platinum Rebate Status with Allergan, which will qualify your practice for the Botox Benefits \$25 off card (a \$25 off card to be used exclusively in your practice for up to 3 visits of \$75 for the year.) This is a great resource to offer your patients to keep them coming back every 3 months to cross sell other products and services. Your Juvederm Purchases can greatly contribute to your achieving this Platinum Status to qualify your practice for the Botox Benefits \$25 off card. (The entire Allergan Aesthetics portfolio contributes toward achieving a Platinum Status – each Natrelle Implant, each \$500 purchase of a combination of PreVageMd/Vivite/MdForte Skin Care, each vial of Botox, and each box of Juvederm.)
60. Promote Juvederm as the "Next Generation" Smooth Dermal Filler (as a product "made from the same company who makes of Botox" to help build credibility with patients.) Juvederm has captured 45% market share of the filler market after only one year since its FDA approval (Juvederm is Highly Patient Satisfying – it is long lasting, and has a smooth and natural feel.) Juvederm can be injected to full optimal fill from day one – no volume loss is seen from dissipation of "needle-extrusion-additives" as is seen with other dermal filler products.
61. Consider promoting Juvederm as the Next Generation Smooth Hyalurónate Dermal Filler that last 2 times longer than the older fillers on the market, for the same price or even priced less. (This will surely gain the attention of patients, and make patients feel they are getting the Most for their Money – and giving patients a long term "treatment plan" they can stick with and afford.) The highly interwoven Hyalurónate

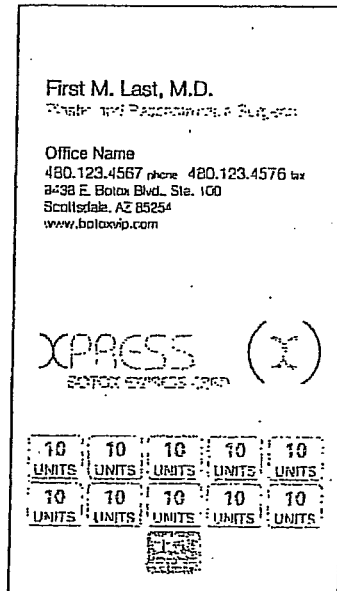
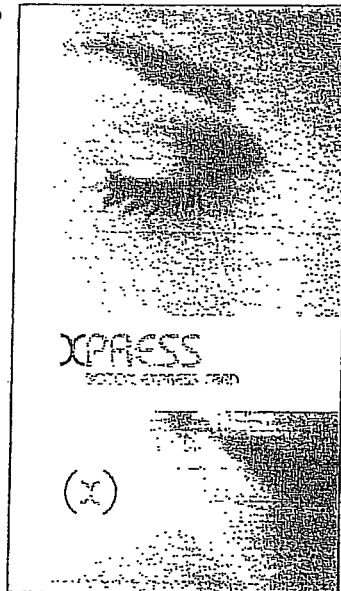
Cross-linkages (Hylacross technology) make Juvederm last longer, and makes Juvederm more resistance to enzymatic breakdown and metabolism.

62. Statistical National average show that only 21% of the targeted aesthetic demographic get treated with "BOTH" Botox and Fillers in aesthetic practices nationwide— there is quite an opportunity to increase your filler conversion business (& it begins with patient education "what it is, how it works, where it goes", and on preventative skin care in general.) Educating patients on "preventative skin care" and getting them truly excited and passionate about preventative skin care is essential.
63. Educate patients on how the hyaluronic gel fillers work on a "cellular level." This will get them excited about preventative skin care. Educating patients on how hyaluronic gel fillers not only help with plumping and filling fine lines, wrinkles and folds, but also due to the very "nature" of the plant derived product (which "mimics" the bodies own natural Hyaluronate"), hyaluronate gel fillers help hydrate, moisturize, bind and lock in the moisture in the skin— aiding in preventative skin care process. One single molecule of hyaluronate can bind 1000x's it's weight in water, and as we age, our skin and bodies lose the natural levels of this natural hyaluronate; hence the need to replenish hyaluronate for preventative skin care. Juvederm Hyaluronate Gel Dermal Filler – The "Next Generation," Smooth Hyaluronate Gel Dermal Filler—now has an official FDA approval to last out to one year (touch-ups at 8-9 months) – utilize this data to market and sell more product to your patients. According to national statistics, the one year duration, with touch ups at 8-9 months, is an optimal time frame for a dermal filler, assuring optimal patient satisfaction – patients feel they are getting the "most value" for the money that they are spending; and this will keep patients "coming back."

Exhibit B

NIDUS XPress Card Selections

1 2



2 2

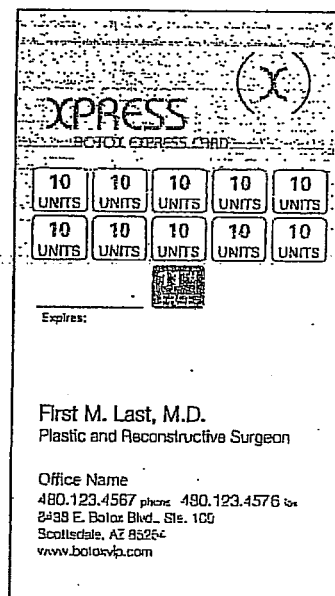
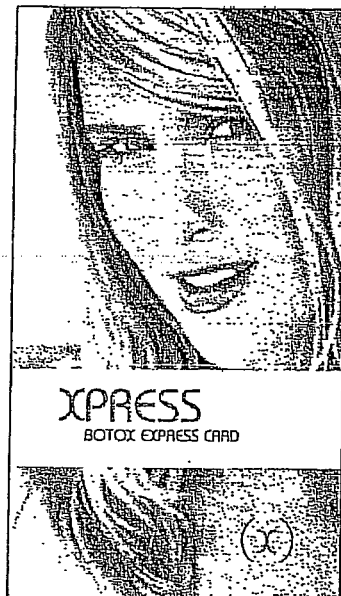


Exhibit C

Exhibit D

From: Damore, Tina
Sent: Monday, August 04, 2008 12:24 AM
To: Damore, Tina
Subject: Interesting - Calculators for your Injectable Business
Attachments: Marketing - Botox Calculator and Business Plan Worksheet.xls; Marketing Juvederm Calculator and Business Plan Worksheet.xls; Marketing - Ideas and Goals for 2008.doc

I thought these may be of interest to you (?) Click on the Attachment - and click on "Disable macros" to enter view the calculator tool, and to customize your numbers.

Here are some interesting calculator tools - to project profits on your injectable business in your practice -- you can enter in your own #'s, and see your personalized projections regarding your injectable business. (It's interesting to see how the calculator can vary by increasing patient visits each week - increasing patient returns and referrals.)

Let me know if I can help out in the funding toward printing any mailers, catering open houses/patient events, etc.

Best Regards,

Tina Damore
Allergan Facial Aesthetics
South West Las Vegas/Northern Arizona
Email: damore.tina@allergan.com
Cell: 702-271-7585
Fax: 702-446-0342

To Order Botox, Juvederm Ultra or Ultra Plus, please call 800-377-7790 or 800-44-BOTOX
To Order Any Product Patient Literature Brochures, please call 800-377-7790
For Any Medically Related Product Questions, please call 866-269-4468

Exhibit E

STRICTLY CONFIDENTIAL

INTERNAL DOCUMENT

Botox® Cosmetic Information	
How many monthly Botox appointments do you see?	
On Average how often do patients return for BOTOX®? (months between visits)	
Would you be interested in your Allergan Rep performing a Retention Analysis to calculate your Botox Return Rate?	
How do you dilute your BOTOX® Cosmetic? # of Saline cc's per vial:	
Do you reconstitute/dilute with preserved or NON-preserved saline?	Preserved / Non-Preserved
What type of syringe & needle gauge do you use to inject BOTOX?	
Who injects BOTOX® Cosmetic in your office?	
Did you price by the: <input type="checkbox"/> Area <input type="checkbox"/> Unit <input type="checkbox"/> Syringe <input type="checkbox"/> mL/cc <input type="checkbox"/> Other	
What had been your average BOTOX® Cosmetic price per unit ?(past/ present)	Yes or No
Do you track your injection points and amounts on a treatment record?	Yes or No
How soon is your first available appointment slot for a BOTOX® patient?	Yes or No
Are you available to see Botox patients every day of the week?	Yes or No
Time spent with a BOTOX® patient? (New / Established)	Yes or No
Do you schedule next Botox treatment before patient departs office?	Yes or No
Do you take BEFORE & AFTER photos for all NEW BOTOX® patients?	Yes or No
Soft Tissue Filler Information	
How many monthly Filler appointments do you see?	
Do you schedule Filler follow-ups before patient departs the office?	/
Time spent with a FILLER patient? (New / Established)	Yes or No
Do you take BEFORE & AFTER photos for all NEW Filler patients?	Yes or No
What fillers do you currently inject, please circle all that apply? JUVEDERM Ultra JUVEDERM Ultra Plus RESTYLANE PERLANE RADIESSE SCULPTRA ZYDERM ZYPLAST COSMODERM COSMOPLAST CAPTIQUE HYLAFORM OTHER:	
What is your charge (cost/per syringe) for each dermal filler that you offer in your practice?	
Is the new Juvederm Dermal Filler listed in your actual Practice Brochure/Menu of Services Brochure?	

STRICTLY CONFIDENTIAL

INTERNAL DOCUMENT

Exhibit F

From: Damore_Tina
Sent: Sunday, November 23, 2008 08:58 PM
To: Ivan Goldsmith
Subject: RE: hey dr. goldsmith (can you attend this program??)
Attachments: Tina's Zip Codes.xls

Ok - sounds good

For getting your 3 providers some injector training - I definitely want to help you --- unfortunately I as a rep have no idea of how to inject (: but I can definitely help in providing product for your provider's classes.

I'm not sure --- but I don't think allergan has any Strata med CME injection courses coming up in vegas for a while?? - unless you see something on www.aesthetichealthdimensions.com - (strata med 866-736-7633) ?? -that is the CME company that allergan donates money to for injector trainings.

A few times per year, the Strata Med courses are in vegas - but other classes may be nearby in California or Arizona (if your providers are willing to travel) - small group classes (5 per class) are free/complimentary. One on one training (individual training) is \$500 each student vs. the \$2500 that the organization normally charges. Students must bring botox and juvederm, and a model to the class - but I'll provide the product for you guys from my supplies, if your providers find a class they are interested in registering for.

The CME courses are usually more beneficial for students vs. the "round-table dinner/injector trainings" that the allergan sponsors or pays speakers to do directly. The CME courses are able to teach all techniques (outside of the FDA approved glabellar for botox and NLF's for Juvederm) - whereas the allergan directly paid instructors (at these dinner programs) have to stay on label (glabellar and NLF's).

Jason (my manager) said he has a little \$\$ left in his budget to sponsor one more juvederm speaker/training meeting in vegas prior to the end of the year (sometime in December) - We usually do 2 or 3 of these types of meetings per year - if this is the case, each rep will be allowed to invite one attendee - the attendee for this program however will be given 2 free boxes of juvederm to use at the class, but must purchase 5 boxes from the company to enroll in the class. (and the class will be Nasal Labial fold training only - all "on label" training....so I'm not sure if this would be helpful or "worth it" for you guys or not??) If so, I'll save you a spot for this one too (just let me know - otherwise, I have to reserve the spot for another student.) - since you have 3 providers, and this class will only have one spot, it may not be something that you'd be interested in - but if so, just let me know and I'd be happy to save this spot for you as well. And I'll offset the 3 extra juvederm that allergan requires the attendee to purchase to enroll/register for this "round table" with my samples too.

Also....if Francesca Reese (the injector Ali is hiring) is willing to share some of her techniques with your 3 new providers, that may be a nice idea for you --- she would be a great instructor. She is very, very experienced. I used to call on her when she was at MAYA - and Ali raves about her. Let me know - and I'll try to get some botox and juvederm samples over to you for your providers to train with Francesca. That is probably the best way to go for your providers to learn the most.

Michelle Maisto (is the allergan rep for your galleria office on sunset and whitney ranch in 89074) - so I'll let michelle know I'm sending you some samples.

I am the rep for you other offices - in anthem and west trop. (I've attached all the zip codes I am responsible for -I'm not sure who the rep would be for your centennial office - what is the zip code of that office? I will let you know.)

There are 3 allergan reps - michelle maisto, Kristine gougeon, and me...amongst the 3 of us, we'll make sure we take care of you guys.

(:

Have fun in florida.

tina

From: Ivan Goldsmith [mailto:IGoldsmith@ihnv.com]
Sent: Saturday, November 22, 2008 6:31 PM
To: Damore Tina
Subject: RE: hey dr. goldsmith (can you attend this program??)

i can any other time, because going to florida for a bat mitzvah. actually very flattered that you asked. how bout we do a dinner together sometime in december to repair our relationship. i have like 3 new providers starting in the clinics. have this guy dr. eric miller (single?) that needs to learn botox too. really want to help get botox in a major way at galleria. i need to get some promotion there asap! tropicana runs on auto-pilot with denise, but she is out of town alot.

ivan

From: Damore Tina [mailto:Damore Tina@Allergan.com]
Sent: Saturday, November 22, 2008 2:57 PM
To: Ivan Goldsmith
Subject: hey dr. goldsmith (can you attend this program??)
Hey dr. goldsmith,

There is a special dinner program at a restaurant called Tableau at the WYNN casino, at 6:30pm on Friday December 5th sponsored by allergan.

Each rep in vegas is allowed to invite one person - so, unfortunately, I can only invite one person (can you make it?)

The speaker is from San Diego (Dr. Moriadi - I think that's how to spell his name) - and he is going to share all his practice implementation strategies - and what has made his practice successful (he's a diamond account).

I wanted to invite you first -

if you can't make it, no worries.

But let me know either way.

Best Regards

Tina

Exhibit G

To: ivan(jgoldsmith@ihnv.com);
Subject: Fwd: Complimentary Botox Staff Vials (from Tina)
Sent: Tue 5/13/2008 6:34:18 PM
From: Jill Oliver

----- Forwarded Message -----

From: Jgarciamd@aol.com
To: "Damore Tina" <Damore_Tina@Allergan.com>
Cc: DRMOMM@aol.com, deb@weilandgroup.com, jlance@accentmedspa.com, drrobletoledo@yahoo.com, "lea spiegel" <lea_spiegel@yahoo.com>, facesrx@gmail.com, shamu1103@cox.net, sandie@lvcosmeticsurgery.com, jgoldsmith@ihnv.com, denisesantoli@cox.net, jillymed@embarqmail.com, makai7@cox.net, cindy@surgispa.net, anilpatelmd@yahoo.com, "med spadoc" <med_spadoc@yahoo.com>, radiancemedspa@aol.com, sdelangis@cox.net, Ltovar@puremedspa.com, sairuko@yahoo.com, "mcps laura" <mcps_laura@yahoo.com>, naomi@arianasurgery.com, Carmen954@aol.com, Michelle6888@aol.com
Sent: Tuesday, May 13, 2008 6:33:06 AM (GMT-0800) America/Tijuana
Subject: Re: Complimentary Botox Staff Vials (from Tina)

does this mean we will get a bottle of Botox Cosmetic for each individual employee as the bottle is labeled single use single patient and the sharing of a single vial between multiple patients is likely a health department violation and could potentially end up in one losing their business and or medical license?

Julio I Garcia, MD FACS

This message and any files transmitted with it are intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended addressee, nor authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, disclose or distribute to anyone this message or any information contained in or with this message. If you have received this message in error, please advise me immediately by reply email and delete this message.

Wondering what's for Dinner Tonight? [Get new twists on family favorites at AOL Food.](#)

EXHIBIT H

From: Damore Tina
Sent: Friday, May 16, 2008 12:41 AM
To: Damore Tina
Subject: Botox 50 unit available to order on Monday, May 19th

Hey there,

Hope you are well.

Just wanted to let you know...I received confirmation that the 50 unit Botox vial will be available to order on Monday, May 19th. You can call 800-377-7790 to place your orders on Monday morning, May 19th. (If you are ordering the 50 unit vial...it was suggested that you clarify with the order desk at the time of your call, that you specifically want the 50 unit vial - to be assured there are no mistakes and that the order desks ships out the 50 unit per your request.)

Only 19,000 vials are available in this first production (it is being shipped from Ireland)...A second production will most likely be available from Ireland in 1-2 months.

Vegas customers are able to place orders two days prior to the availability for the rest of the nation (It will be available to the rest of the nation for orders on Wednesday, May 21st).

If you would like to purchase the 50 unit vial...it has been suggested that customers order an "ample" amount for their practice (prior to available for the rest of the nation)...as we are unsure on the exact dates when the next production from Ireland will be completed and available once again...Allergan is trying to manufacture as fast as possible...but after this first shipment received on Monday of 19,000 vials -- it may be 1-2 months before our order center receives the next shipment of 50 unit vials.

Just wanted to let everyone know on the dates.

Thanks for everything. Please let me know if I can help you with anything at anytime..

Very Best Regards,

Tina Damore
Business Development Manager
Allergan Facial Aesthetics
South West Las Vegas/Northern Arizona
Email: damore_tina@allergan.com
Cell: 702-271-7585
Fax: 702-446-0342

To Order Botox, Juvederm Ultra or Ultra Plus, please call 800-377-7790 or 800-44-BOTOX
To Order Any Product Patient Literature Brochures, please call 800-377-7790
For Any Medically Related Product Questions, please call 866-269-4468